



General Assembly

February Session, 2016

***Raised Bill No. 365***

LCO No. 2562



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING CHILD ENDANGERMENT WHILE DRIVING  
WHILE INTOXICATED AND THE TIME LIMIT UNDER WHICH TO  
ADMINISTER A TEST FOR BLOOD ALCOHOL LEVELS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2016*) (a) No person, while  
2       under the influence of intoxicating liquor or any drug or both, shall  
3       operate a motor vehicle that is carrying a child under eighteen years of  
4       age. A person commits the offense of operating a motor vehicle  
5       carrying a child under eighteen years of age, while under the influence  
6       of intoxicating liquor or any drug or both if such person operates a  
7       motor vehicle in which a child under eighteen years of age is a  
8       passenger (1) while under the influence of intoxicating liquor or any  
9       drug or both, or (2) while such person has an elevated blood alcohol  
10      content. For the purposes of this section, "elevated blood alcohol  
11      content" means a ratio of alcohol in the blood of such person that is  
12      eight-hundredths of one per cent or more of alcohol, by weight, except  
13      that if such person is operating a commercial motor vehicle, "elevated  
14      blood alcohol content" means a ratio of alcohol in the blood of such

15 person that is four-hundredths of one per cent or more of alcohol, by  
16 weight, and "motor vehicle" includes a snowmobile and all-terrain  
17 vehicle, as those terms are defined in section 14-379 of the general  
18 statutes.

19 (b) The provisions of subsections (b), (c), (d), (e), (f), (h), (i), (j), (k)  
20 and (l) of section 14-227a of the general statutes, as amended by this  
21 act, adapted accordingly, shall be applicable to a violation of  
22 subsection (a) of this section.

23 (c) Any person who violates any provision of subsection (a) of this  
24 section shall: (1) For conviction of a first violation, (A) be fined not less  
25 than five hundred dollars or more than one thousand dollars; (B) be  
26 imprisoned not more than thirteen months, thirty consecutive days of  
27 which may not be suspended or reduced in any manner, and  
28 sentenced to a period of probation requiring as a condition of such  
29 probation that such person: (i) Perform one hundred hours of  
30 community service, as defined in section 14-227e of the general  
31 statutes, (ii) submit to an assessment through the Court Support  
32 Services Division of the Judicial Branch of the degree of such person's  
33 alcohol or drug abuse, (iii) undergo a treatment program, including  
34 chemical screening, if so ordered, (iv) submit to an interview and  
35 evaluation by the Department of Children and Families to assess any  
36 ongoing risk posed to any child who was a passenger in the motor  
37 vehicle at the time of the violation, and (v) cooperate with any  
38 programming, treatment, directives or plan if so ordered by the  
39 Department of Children and Families; (C) have such person's motor  
40 vehicle operator's license or nonresident operating privilege  
41 suspended for forty-five days and, as a condition for the restoration of  
42 such license, be required to install an ignition interlock device on each  
43 motor vehicle owned or operated by such person and, upon such  
44 restoration, be prohibited for the one-year period following such  
45 restoration from operating a motor vehicle unless such motor vehicle is  
46 equipped with a functioning, approved ignition interlock device, as  
47 defined in section 14-227j of the general statutes; and (D) be guilty of

48 an unclassified felony; (2) for conviction of a second violation of this  
49 section not later than ten years after a prior conviction for the same  
50 offense, (A) be fined not less than one thousand dollars or more than  
51 four thousand dollars; (B) be imprisoned not more than three years,  
52 one hundred eighty consecutive days of which may not be suspended  
53 or reduced in any manner and sentenced to a period of probation  
54 requiring as a condition of such probation that such person: (i) Perform  
55 one hundred hours of community service, as defined in section 14-227e  
56 of the general statutes, (ii) submit to an assessment through the Court  
57 Support Services Division of the Judicial Branch of the degree of such  
58 person's alcohol or drug abuse, (iii) undergo a treatment program,  
59 including chemical screening, if so ordered, (iv) submit to an interview  
60 and evaluation by the Department of Children and Families to assess  
61 any ongoing risk posed to any child who was a passenger in the motor  
62 vehicle at the time of the violation, and (v) cooperate with any  
63 programming, treatment, directives or plan if so ordered by the  
64 Department of Children and Families; (C) have such person's motor  
65 vehicle operator's license or nonresident operating privilege  
66 suspended for forty-five days and, as a condition for the restoration of  
67 such license, be required to install an ignition interlock device on each  
68 motor vehicle owned or operated by such person and, upon such  
69 restoration, be prohibited for the three-year period following such  
70 restoration from operating a motor vehicle unless such motor vehicle is  
71 equipped with a functioning, approved ignition interlock device, as  
72 defined in section 14-227j of the general statutes, except that for the  
73 first year of such three-year period, such person's operation of a motor  
74 vehicle shall be limited to such person's transportation to or from work  
75 or school, an alcohol or drug abuse treatment program, an ignition  
76 interlock device service center, a treatment program ordered by the  
77 Department of Children and Families or an appointment with a  
78 probation officer or Department of Children and Families caseworker;  
79 and (D) be guilty of an unclassified felony; (3) for a third or subsequent  
80 conviction of a violation of this section not later than ten years after a  
81 prior conviction for the same offense, (A) be fined not less than two

82 thousand dollars or more than eight thousand dollars; (B) be  
83 imprisoned not more than five years, two years of which may not be  
84 suspended or reduced in any manner, and sentenced to a period of  
85 probation requiring as a condition of such probation that such person:  
86 (i) Perform one hundred hours of community service, as defined in  
87 section 14-227e of the general statutes, (ii) submit to an assessment  
88 through the Court Support Services Division of the Judicial Branch of  
89 the degree of such person's alcohol or drug abuse, (iii) undergo a  
90 treatment program, including chemical screening, if so ordered, (iv)  
91 submit to an interview and evaluation by the Department of Children  
92 and Families to assess any ongoing risk posed to any child who was a  
93 passenger in the motor vehicle at the time of the offense, and (v)  
94 cooperate with any programming, treatment, directives or plan if so  
95 ordered by the Department of Children and Families; (C) have such  
96 person's motor vehicle operator's license or nonresident operating  
97 privilege permanently revoked upon such third offense, except that if  
98 such person's revocation is reversed or reduced pursuant to subsection  
99 (i) of section 14-111 of the general statutes, such person shall be  
100 prohibited from operating a motor vehicle unless such motor vehicle is  
101 equipped with a functioning, approved ignition interlock device, as  
102 defined in section 14-227j of the general statutes, for the time period  
103 prescribed in subdivision (2) of subsection (i) of section 14-111 of the  
104 general statutes; and (D) be guilty of an unclassified felony. For  
105 purposes of the imposition of penalties pursuant to this subsection, a  
106 conviction under the provisions of subsection (a) of section 14-227a of  
107 the general statutes in effect on October 1, 1981, or as amended  
108 thereafter, subsection (a) of this section, subsection (a) of section 14-  
109 227g of the general statutes, subsection (a) of section 2 of this act,  
110 subsection (a) of section 53a-56b of the general statutes or subsection  
111 (a) of section 53a-60d of the general statutes or a conviction in any  
112 other state of any offense, the essential elements of which are  
113 determined by the court to be substantially the same as the elements of  
114 the aforementioned provisions, shall constitute a prior conviction for  
115 the same offense.

116       Sec. 2. (NEW) (*Effective October 1, 2016*) (a) No person shall operate a  
 117 school bus, student transportation vehicle or other motor vehicle  
 118 specially designated for carrying school children, while under the  
 119 influence of intoxicating liquor or any drug or both. A person commits  
 120 the offense of operating a school bus, student transportation vehicle or  
 121 other motor vehicle specially designated for carrying children, while  
 122 under the influence of intoxicating liquor or any drug or both if: (1)  
 123 Such person operates a school bus, student transportation vehicle or  
 124 other motor vehicle specially designated for carrying children (A)  
 125 while under the influence of intoxicating liquor or any drug or both, or  
 126 (B) while such person has an elevated blood alcohol content; or (2)  
 127 such person operates a school bus, student transportation vehicle, or  
 128 other motor vehicle specially designated for carrying children (A)  
 129 while a child under eighteen years of age is a passenger in the vehicle  
 130 and while such person is under the influence of intoxicating liquor or  
 131 any drug or both, or (B) while a child under eighteen years of age is a  
 132 passenger in the vehicle and while such person has an elevated blood  
 133 alcohol content. For the purposes of this section, "elevated blood  
 134 alcohol content" means a ratio of alcohol in the blood of such person  
 135 that is eight-hundredths of one per cent or more of alcohol, by weight,  
 136 except that (i) if such person is operating a commercial motor vehicle,  
 137 "elevated blood alcohol content" means a ratio of alcohol in the blood  
 138 of such person that is four-hundredths of one per cent or more of  
 139 alcohol, by weight, or (ii) if such person is under twenty-one years of  
 140 age, "elevated blood alcohol content" means a ratio of alcohol in the  
 141 blood of such person that is two-hundredths of one per cent or more of  
 142 alcohol, by weight and "motor vehicle" includes a snowmobile and all-  
 143 terrain vehicle, as those terms are defined in section 14-379 of the  
 144 general statutes.

145       (b) The provisions of subsections (b), (c), (d), (e), (f), (h), (i), (j), (k)  
 146 and (l) of section 14-227a of the general statutes, as amended by this  
 147 act, adapted accordingly, shall be applicable to violations of  
 148 subdivisions (1) and (2) of subsection (a) of this section.

149 (c) For purposes of this section, a "motor vehicle specially  
150 designated for carrying children" means any motor vehicle, except for  
151 a registered school bus or student transportation vehicle as defined in  
152 section 14-212 of the general statutes, that is designated or used by a  
153 carrier, a carrier's agent, a person, firm or corporation for the  
154 transportation of children to or from any program or activity  
155 organized primarily for persons under the age of eighteen years, with  
156 or without charge to the individual being transported. A "motor  
157 vehicle specially designated for carrying children" does not include a  
158 passenger motor vehicle normally used for personal, family or  
159 household purposes, which is operated by a person without a public  
160 passenger endorsement for personal, family or household carpooling  
161 to a private event.

162 (d) Operation of a school bus, school van or other motor vehicle  
163 specially designated for carrying children, while under the influence of  
164 intoxicating liquor or any drug or while having an elevated blood  
165 alcohol content, in violation of subsection (a) of this section, is an  
166 unclassified felony.

167 (1) Any person who violates subdivision (1) of subsection (a) of this  
168 section shall: (A) Be fined not more than ten thousand dollars, (B) be  
169 imprisoned not less than one year nor more than ten years, thirty  
170 consecutive days of which shall not be suspended or reduced in any  
171 manner, followed by a period of probation not to exceed three years,  
172 unless the court, pursuant to subsection (e) of section 53a-29 of the  
173 general statutes, determines in its discretion that a period of up to five  
174 years of probation is warranted, (C) be required to perform one  
175 hundred hours of community service, as defined in section 14-227e of  
176 the general statutes, as a condition of probation, (D) be required to  
177 submit to an assessment through the Court Support Services Division  
178 of the Judicial Branch of the degree of such person's alcohol or drug  
179 abuse as a condition of probation, (E) be required to undergo a  
180 treatment program, including chemical screening, if so ordered, as a  
181 condition of probation, and (F) have such person's motor vehicle

182 operator's license or nonresident operating privilege suspended for  
183 forty-five days and, as a condition for the restoration of such license,  
184 be required to install an ignition interlock device on each motor vehicle  
185 owned or operated by such person and, upon such restoration, be  
186 prohibited for a two-year period following such restoration from  
187 operating a motor vehicle unless such motor vehicle is equipped with  
188 a functioning, approved ignition interlock device, as defined in section  
189 14-227j of the general statutes, except that for the first year of such two-  
190 year period, such person's operation of a motor vehicle shall be limited  
191 to such person's transportation to or from work or school, an alcohol or  
192 drug abuse treatment program, an ignition interlock device service  
193 center or an appointment with a probation officer.

194 (2) Any person who violates subdivision (2) of subsection (a) of this  
195 section shall: (A) be fined not more than ten thousand dollars, (B) be  
196 imprisoned not less than one year nor more than ten years, one  
197 hundred twenty consecutive days of which may not be suspended or  
198 reduced in any manner, followed by a period of probation not to  
199 exceed three years, unless the court, pursuant to subsection (e) of  
200 section 53a-29 of the general statutes, determines in its discretion that a  
201 period of up to five years of probation is warranted, (C) be required to  
202 perform one hundred hours of community service, as defined in  
203 section 14-227e of the general statutes, as a condition of probation, (D)  
204 be required to submit to an assessment through the Court Support  
205 Services Division of the Judicial Branch of the degree of such person's  
206 alcohol or drug abuse as a condition of probation, (E) be required to  
207 undergo a treatment program, including chemical screening, if so  
208 ordered, as a condition of probation, and (F) have such person's motor  
209 vehicle operator's license or nonresident operating privilege  
210 suspended for forty-five days and, as a condition for the restoration of  
211 such license, be required to install an ignition interlock device on each  
212 motor vehicle owned or operated by such person and, upon such  
213 restoration, be prohibited for a two-year period following such  
214 restoration from operating a motor vehicle unless such motor vehicle is

215 equipped with a functioning, approved ignition interlock device, as  
216 defined in section 14-227j of the general statutes, except that for the  
217 first year of such two-year period, such person's operation of a motor  
218 vehicle shall be limited to such person's transportation to or from work  
219 or school, an alcohol or drug abuse treatment program, an ignition  
220 interlock device service center or an appointment with a probation  
221 officer.

222 Sec. 3. Subsection (b) of section 14-227a of the general statutes is  
223 repealed and the following is substituted in lieu thereof (*Effective*  
224 *October 1, 2016*):

225 (b) Except as provided in subsection (c) of this section, in any  
226 criminal prosecution for violation of subsection (a) of this section,  
227 evidence respecting the amount of alcohol or drug in the defendant's  
228 blood or urine at the time of the alleged offense, as shown by a  
229 chemical analysis of the defendant's breath, blood or urine shall be  
230 admissible and competent provided: (1) The defendant was afforded a  
231 reasonable opportunity to telephone an attorney prior to the  
232 performance of the test and consented to the taking of the test upon  
233 which such analysis is made; (2) a true copy of the report of the test  
234 result was mailed to or personally delivered to the defendant within  
235 twenty-four hours or by the end of the next regular business day, after  
236 such result was known, whichever is later; (3) the test was performed  
237 by or at the direction of a police officer according to methods and with  
238 equipment approved by the Department of Emergency Services and  
239 Public Protection and was performed in accordance with the  
240 regulations adopted under subsection (d) of this section; (4) the device  
241 used for such test was checked for accuracy in accordance with the  
242 regulations adopted under subsection (d) of this section; (5) an  
243 additional chemical test of the same type was performed at least ten  
244 minutes after the initial test was performed or, if requested by the  
245 police officer for reasonable cause, an additional chemical test of a  
246 different type was performed to detect the presence of a drug or drugs  
247 other than or in addition to alcohol, provided the results of the initial



248 test shall not be inadmissible under this subsection if reasonable efforts  
249 were made to have such additional test performed in accordance with  
250 the conditions set forth in this subsection and such additional test was  
251 not performed or was not performed within a reasonable time, or the  
252 results of such additional test are not admissible for failure to meet a  
253 condition set forth in this subsection; and (6) evidence is presented that  
254 the test was commenced within two hours of operation or, if the test  
255 was not commenced within two hours of operation, expert testimony  
256 is provided to establish the reliability of the tests. In any prosecution  
257 under this section it shall be a rebuttable presumption that the results  
258 of such chemical analysis establish the ratio of alcohol in the blood of  
259 the defendant at the time of the alleged offense, except that if the  
260 results of the additional test indicate that the ratio of alcohol in the  
261 blood of such defendant is ten-hundredths of one per cent or less of  
262 alcohol, by weight, and is higher than the results of the first test,  
263 evidence shall be presented that demonstrates that the test results and  
264 the analysis thereof accurately indicate the blood alcohol content at the  
265 time of the alleged offense.

266 Sec. 4. Subsection (c) of section 14-227b of the general statutes is  
267 repealed and the following is substituted in lieu thereof (*Effective*  
268 *October 1, 2016*):

269 (c) If the person arrested refuses to submit to such test or analysis or  
270 submits to such test or analysis [, commenced within two hours of the  
271 time of operation,] and the results of such test or analysis indicate that  
272 such person has an elevated blood alcohol content, the police officer,  
273 acting on behalf of the Commissioner of Motor Vehicles, shall  
274 immediately revoke and take possession of the motor vehicle  
275 operator's license or, if such person is a nonresident, suspend the  
276 nonresident operating privilege of such person, for a twenty-four-hour  
277 period. The police officer shall prepare a report of the incident and  
278 shall mail or otherwise transmit in accordance with this subsection the  
279 report and a copy of the results of any chemical test or analysis to the  
280 Department of Motor Vehicles within three business days. The report

281 shall contain such information as prescribed by the Commissioner of  
 282 Motor Vehicles and shall be subscribed and sworn to under penalty of  
 283 false statement as provided in section 53a-157b by the arresting officer.  
 284 If the person arrested refused to submit to such test or analysis, the  
 285 report shall be endorsed by a third person who witnessed such refusal.  
 286 The report shall set forth the grounds for the officer's belief that there  
 287 was probable cause to arrest such person for a violation of subsection  
 288 (a) of section 14-227a and shall state that such person had refused to  
 289 submit to such test or analysis when requested by such police officer to  
 290 do so or that such person submitted to such test or analysis [,  
 291 commenced within two hours of the time of operation,] and the results  
 292 of such test or analysis indicated that such person had an elevated  
 293 blood alcohol content. The Commissioner of Motor Vehicles may  
 294 accept a police report under this subsection that is prepared and  
 295 transmitted as an electronic record, including electronic signature or  
 296 signatures, subject to such security procedures as the commissioner  
 297 may specify and in accordance with the provisions of sections 1-266 to  
 298 1-286, inclusive. In any hearing conducted pursuant to the provisions  
 299 of subsection (g) of this section, it shall not be a ground for objection to  
 300 the admissibility of a police report that it is an electronic record  
 301 prepared by electronic means.

302 Sec. 5. Subsection (g) of section 14-227b of the general statutes is  
 303 repealed and the following is substituted in lieu thereof (*Effective*  
 304 *October 1, 2016*):

305 (g) If such person contacts the department to schedule a hearing, the  
 306 department shall assign a date, time and place for the hearing, which  
 307 date shall be prior to the effective date of the suspension, except that,  
 308 with respect to a person whose operator's license or nonresident  
 309 operating privilege is suspended in accordance with subdivision (2) of  
 310 subsection (e) of this section, such hearing shall be scheduled not later  
 311 than thirty days after such person contacts the department. At the  
 312 request of such person or the hearing officer and upon a showing of  
 313 good cause, the commissioner may grant one or more continuances.

314 The hearing shall be limited to a determination of the following issues:  
 315 (1) Did the police officer have probable cause to arrest the person for  
 316 operating a motor vehicle while under the influence of intoxicating  
 317 liquor or any drug or both; (2) was such person placed under arrest; (3)  
 318 did such person refuse to submit to such test or analysis or did such  
 319 person submit to such test or analysis [ , commenced within two hours  
 320 of the time of operation,] and the results of such test or analysis  
 321 indicated that such person had an elevated blood alcohol content; and  
 322 (4) was such person operating the motor vehicle. In the hearing, the  
 323 results of the test or analysis shall be sufficient to indicate the ratio of  
 324 alcohol in the blood of such person at the time of operation, provided  
 325 such test was commenced within two hours of the time of operation.  
 326 The fees of any witness summoned to appear at the hearing shall be  
 327 the same as provided by the general statutes for witnesses in criminal  
 328 cases. Notwithstanding the provisions of subsection (a) of section 52-  
 329 143, any subpoena summoning a police officer as a witness shall be  
 330 served not less than seventy-two hours prior to the designated time of  
 331 the hearing.

|   |                        |             |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>October 1, 2016</i> | New section |
| Sec. 2  | <i>October 1, 2016</i> | New section |
| Sec. 3  | <i>October 1, 2016</i> | 14-227a(b)  |
| Sec. 4  | <i>October 1, 2016</i> | 14-227b(c)  |
| Sec. 5  | <i>October 1, 2016</i> | 14-227b(g)  |

**Statement of Purpose:**

To (1) provide for an appropriate penalty for operating under the influence with a child in the vehicle; and (2) remove the requirement that a test for blood alcohol levels be performed within two hours of operation for purposes of administrative per se hearings; and (3) require that any test not commenced within two hours be established

as reliable by expert witness testimony for purpose of criminal prosecution.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*